

12-23-93

27

Mr. Steven DeGabriel
Massachusetts Department of
Environmental Protection
Division of Hazardous Materials
One Winter Street, 7th Floor
Boston, MA 02108

Dear Mr. DeGabriel:

This letter responds to two questions presented in your October 15, 1993 letter. Your first question deals with the relationship between the State's listing of Class A recyclable materials and those materials included in that list that do not meet the definition of solid waste as set out in the Resource Conservation and Recovery Act (RCRA). You note that although the Class A Recyclables set out at 310 CMR 30.212(1-12) are composed of some State only, broader in scope categories, the regulation also contains categories that list Federal analogues.¹ Therefore, you ask us to identify those categories that EPA believes have Federally regulated analogues, and to identify which of those categories are not Federally regulated. Finally, you ask EPA to provide an opinion on the applicability of 310 CMR 30.351(2)(B)(3) to all Class A materials listed at 310 CMR 30.212.

The relationship between State and Federal requirements for recycled materials is relevant in determining whether a generator is a small or large quantity generator. Under federal regulations, one must determine whether a material can be defined as a solid waste by definition. Only if one determines that the material is a solid waste can one go on to determine if it is a hazardous waste. Under RCRA, any waste which cannot be defined as, or is exempt from the definition of solid waste, cannot be a hazardous waste. Therefore, such a waste would not be counted towards determining the rate of generation.

The following table which lists each Class A recyclable material should clarify the relationship between analogous State and Federal regulations. The materials listed below are those that are considered to be recyclable by the State and would not be considered in determining a company's hazardous waste generator status. Following the description of each material are the applicable State and Federal regulations.

LB

		CONCURRENCES			
NO.	TITLE	40 CFR	§§261.1 AND 261.2.		
SURNAME	<i>DeGabriel</i>	<i>Can</i>	<i>12/23/93</i>		
DATE	<i>12-23-93</i>				

EPA Form 1220-1 (12-92)

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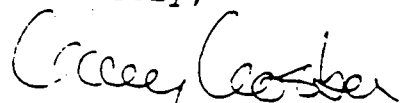
The materials followed by a Federal citation are exempt from the definition of solid waste, and therefore, would not be considered hazardous wastes. In determining how much hazardous waste is generated in a month at a particular company, federal standards would exempt all of the items below followed by Federal citations, when being reclaimed:

Class A Regulated Recyclable Materials

- 1) Materials that are neither used in manner constituting disposal, nor burned for energy recovery, nor accumulated speculatively and are either: used or reused as ingredients to make a product, provided that the materials are not being reclaimed; used or reused as substitutes for commercial chemical products; or returned as substitutes for feedstock in the original production process without being reclaimed. [310 CMR 30.212(1)(a)(c) / 40 CFR §261.2(e)(i)-(iii)]
- 2) Industrial ethyl alcohol. [31 CMR 30.212(2) / 40 CFR §261.6(a)(3)(i)]
- 3) Scrap metal which would be a hazardous waste if disposed of. [310 CMR 30.212(3) / 40 CFR §261.6(a)(3)(iv)]
- 4) Used batteries returned for regeneration to the manufacturer or other regeneration facility [310 CMR 30.212(4) / 40 CFR §261.6(a)(2)(v)]
- 5) A sludge having the characteristics of a hazardous waste when being reclaimed. [310 CMR 30.212(5) / 40 CFR §261.6(c)(3)]
- 6) A by-product having the characteristics of a hazardous waste when being reclaimed. [310 CMR 30.212(6) / 40 CFR §261.6(c)(3)]
- 7) A commercial chemical product listed in 310 CMR 30.133 or 30.136 which has never been used and which is being reclaimed. [310 CMR 30.212(7) / 40 CFR §261.6(c)(3)]
- 8) Waste oil, including, but not limited to waste oil that has the characteristics of a hazardous waste and is not hazardous waste fuel, if recycled in some other manner than being burned for energy recovery. [310 CMR 30.212(8) / 40 CFR §261.6(a)(3)(iii)]
- 9) Specification used oil fuel burned for energy recovery and otherwise handled in compliance with 310 CMR 30.250. [310 CMR 30.212(9) / no federal regulatory analogue]
- 10) A material recycled in a completely enclosed recycling system at the site of generation. [310 CMR 30.212(10) / 40 CFR §261.4(a)(8)]

If you have any further questions on these regulatory interpretations, please call Lisa Papetti of my staff at 573-5745.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Gosbee".

Gary Gosbee, Chief
MA & RI Waste Regulations Section

cc: Lisa Papetti, EPA
Jim Miller, EPA
Bill Sirull, MA DEP - Boston



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

December 22, 1993

Mr. Stephen Finch
Laboratory Director
Dexsil Corporation
One Hamden Park Drive
Hamden, CT 06517

Dear Mr. Finch:

This letter is in response to your October 21, 1993 inquiry about the permitting requirements under the Resource Conservation and Recovery Act (RCRA) as they apply to the line of portable test kits manufactured by your company.

Based on the facts presented in your letter and as clarified in our telephone conversations, the use of the precipitation agent to render the aqueous based solution non-hazardous is treatment of a hazardous waste. At the completion of a test, prior to adding this agent, the solution fails the Toxicity Characteristic Leaching Procedure (TCLP) test due to the presence of heavy metals. TCLP failure is due to the titrating agent mercuric nitrate which is added to produce a visual indication for the presents of chlorides. The precipitation agent (Aquafloc 2404) is added to render insoluble the heavy metals resulting from this titration process, and is not intended to treat any other constituents (e.g., chlorinated solvents, benzene) that may be present in the solution.

RCRA does not require the issuance of a permit for on-site treatment of hazardous waste provided the treatment takes place in an accumulation container or tank in conformance with the requirements of 40 CFR Part 262.34 and Subparts I and J of 40 CFR Part 265 (standards for containers and tank systems). It should be noted that if the treatment takes place in a device that does not meet the definition of a container or tank the treatment would be subject to RCRA permitting.

In addition, 40 CFR Part 268.9 requires generators who treat characteristic wastes in accumulation containers or tanks to meet applicable land disposal restrictions (LDR) must prepare a waste analysis plan. This plan must formally documents the waste analysis procedures necessary to demonstrate compliance with the LDR regulations. Please note that treatment of hazardous waste must not violate the dilution prohibition standards of 40 CFR Part 268.3. The use of a precipitation agent does not appear to violate this prohibition.



The United States Environmental Protection Agency, Region 1 interpretation in this letter reflects the Federal regulations governing hazardous waste. States with authorized programs may impose more stringent requirements. If you have any questions, please contact James Gaffey of my staff at (617) 223-5542.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Podgurski', with a long horizontal flourish extending to the right.

John Podgurski, Chief
Connecticut Waste Regulation Section
Waste Management Division

DEXSIL®

October 21, 1993

Mr. James Gaffey
RCRA Permitting
USEPA
Mailcode HEE-CAN6
JFK Federal Building
Boston, MA 02203

Dear Mr. Gaffey;


I am writing to you following our telephone discussion of yesterday concerning disposal of used test kits.

We manufacture a line of portable test kits to analyze soil, oil, and water samples for the presence of chlorinated solvents, PCBs, and other environmental contaminants. These test kits use small amounts of a variety of chemicals, including heavy metals, to perform the testing procedure. At the completion of a test, a kit contains trace amounts of mercury, ranging from 0.5 to 2.5 milligrams per kit. The kits use a precipitation agent to render the heavy metals insoluble which allows the used kits to easily pass the TCLP test for disposal.

Several of our customers are concerned that by performing this test procedure they are actually treating a hazardous waste and therefore need an EPA permit to do so. It is our understanding from reading the regulations and from the ACS "Waste Management Manual" that this is not necessary for this type of analytical test. We have tried to explain this to our customers, but they have requested that we provide them with a written opinion direct from the EPA. Would you please provide us with a letter stating your interpretation of the permitting requirement as it concerns these test kits? We will then forward copies of your letter to the concerned parties. Please let me know if you require any further information.

I appreciate your attention to this matter.

Sincerely,



Stephen Finch
Laboratory Director

December 21, 1993

Chester W. Matthews
Director, Safety, Health
and Environmental Protection
Bath Iron Works
700 Washington Street
Bath, ME 04530

Dear Mr. Matthews:

In response to your November 16, 1993 letter concerning my telephone conversation with Bath Iron Works personnel, I'd like to provide clarification on the issues you raised and on the BIW paint use/reuse issue in general.

Chapter 40 CFR, Section 261.2 provides the definition of solid waste and states,

"A solid waste is any discarded material that is not excluded by Section 261.4(a) or that is not excluded by variance..."

However, Section 261.2(e) explains that materials that are not solid waste when recycled include those that can be shown to be recycled by being used or reused as "effective substitutes for commercial products." Thus you need only document that there is a known market or disposition for the material (see Section 261.2(f)) to avoid its classification as solid waste and therefore a subject of RCRA Subtitle C regulation. This applies to materials that are not accumulated speculatively for recycling at some point in the future (see Section 261.1(c)).

In your letter you indicate correctly that the owner of a material must determine whether it is a solid waste as defined in 40 CFR, Section 261.2. You should base your determination on documentation from the paint's manufacturer indicating its effective life. You should also refer to the paint as a material, versus a "hazardous" material which is unnecessarily cautious.)

Federal regulations offer no definition of the terms "intended use" or "original intended use". I offered my interpretation of these terms based on their intuitive meaning when I spoke with Mr. Arndt and Mr. Lewis. I understand through speaking with Denise Lord of the Maine Waste Management Agency that the state

initially offered a definition of use and reuse that are more strict than federal regulations. Since it is within the state's authority to do this, you should defer to the state's definition of these terms. If the State of Maine determines that the Military Specification date is the date at which the paint becomes a hazardous waste, then BIW will need to petition the state for a variance from its regulations.

I apologize for the delay in getting back to you on this issue; I got supporting information from other staff here which took some time. If you require additional clarification or assistance, please contact me at (617) 223-5529.

Sincerely,

Sally B. Mansur
Waste Management Division
Pollution Prevention Coordinator

cc: Matthew Hoagland, Chief, ME, NH & VT Waste Regulation
Section
Ken Rota, RCRA Support Section
Denise Lord, Maine Waste Management Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

December 16, 1993

Thomas R. Trafton, President
Recovery Express, Incorporated
197 Portland Street
Boston, MA 02114

Dear Mr. Trafton:

This letter is in response to your November 10, 1993 letter, requesting EPA Region I's interpretation of the applicability of the Resource Conservation and Recovery Act (RCRA) regulations to the Recovery Express' Shred Pax AZ40 machine.

The RCRA regulations apply to those who generate, treat, store, dispose of, or transport hazardous waste. In grinding lead contaminated debris, the Shred Pax machine appears to be designed to alter the physical characteristics of the lead contaminated materials only to facilitate the ultimate processing of the waste, not to make the waste more amenable to the treatment process. The waste is not being changed to render it less hazardous, to make it more amenable to recovery, or reduced in volume and, in fact, none of the conditions which must be met for a process to be considered treatment are met, and this process would not be subject to treatment requirements. As described in your literature, the lead contaminated material will still be considered hazardous waste after the Shred Pax operation is complete.

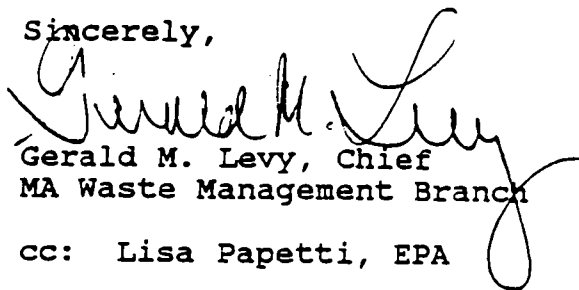
In addition, it appears that because the unit is mobile, the generator associated with the site at which the unit is used will be responsible for hazardous waste management practices involved with the machine while on its premises. Also, the generator would be subject to training requirements for any employees handling hazardous waste at their site. Recovery Express and the generator may also be held to additional safety requirements under Occupational Safety and Health Administration (OSHA) regulations. The fact that the process is conducted entirely at the generator's facility and is left at the facility upon completion of processing, relieves Recovery Express of any transportation or generator notification requirements.

Finally, this operation may be subject to certain EPA and/or MA DEP air quality regulations. Please consult both Agencies to determine the applicability of these regulations to your process.



If you have additional questions on RCRA requirements, please
contact Lisa Papetti of my staff at 573-5745.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald M. Levy". The signature is written in dark ink and is positioned above the printed name and title.

Gerald M. Levy, Chief
MA Waste Management Branch

cc: Lisa Papetti, EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

October 8, 1993

Honorable Wayne D. King
New Hampshire State Senator
State House
Concord, New Hampshire 03301-4951

Dear Senator King:

Administrator Carol Browner has asked me to respond to your letter of August 4, 1993. Your letter asked why batteries offered by New England Power to Ms. Melanie Hamilton and Mr. Walter Myers would have to be returned to New England Power for disposal as specified by EPA regulations. You did not provide the specific authority that New England Power referenced when dealing with Mr. Myers. I assume that the Resource Conservation and Recovery Act (RCRA) was the authority referenced and my response will be from this perspective.

Based on the facts presented, we believe that New England Power may have acted prematurely. The batteries had not been discarded, and hence had not yet become a solid waste under 40 C.F.R. § 261.2.

Had the batteries been discarded, they would have become a solid waste and very likely also a hazardous waste. In general a solid waste is any material that is discarded by being disposed of, burned, treated or accumulated before or in lieu of these activities. The definition of a solid waste is given in 40 C.F.R. § 261.2(a)(1), "A solid waste is any discarded material that is not excluded by § 261.4(a) or that is not excluded by variance granted under § 260.30 and 260.31". A discarded material is any material which is abandoned as explained in paragraph (b) of § 261.2, recycled as explained in paragraph (c) of § 261.2 or considered inherently waste-like as explained in paragraph (d) of § 261.2.

A solid waste is a hazardous waste if it exhibits a characteristic of a hazardous waste identified in subpart C of part 261 or it is listed in subpart D of part 261. RCRA establishes a comprehensive management program to regulate hazardous waste from generation through proper disposal or destruction. The regulations first identify those wastes that are hazardous and then establishes various administrative requirements for the three categories of hazardous waste handlers, which are generators, transporters, and owners or operators of treatment, storage and disposal facilities.

In accordance with § 261.2(e)(1)(ii) materials that are not solid waste when recycled are those materials that can be shown to be



"used or reused as an effective substitute for commercial products." If the recycling process involved reclamation, such as the recovering of lead from spent lead batteries, the material would be deemed a solid waste. In the case of spent lead batteries they would be subject to part 266 subpart G of the regulations.

Under the RCRA subtitle C regulations, batteries reused for the purpose of substituting for a commercial product would not be deemed as a solid waste and therefore not subject to the applicable hazardous waste management criteria.

You should be aware that the above conclusion pertains only to federal EPA requirements under RCRA. Many aspects of the RCRA program are delegated to and reflected in the New Hampshire regulations. EPA's conclusions and guidance on interpretive issues do not necessarily supersede those of New Hampshire.

If you have any questions on this matter, please contact Mel Cheeks of my staff at (617) 223-5590.

Sincerely,



for Paul G. Keough
Acting Regional Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

SEP 2 1993

Gary L. Williams, Manager
Laidlaw Environmental Services, Inc.
Transportation Programs
P.O. Box 210799
Columbia, SC 29221

Re: Hazardous Waste Discharges from Third Party Transporters

Dear Mr. Williams:

This is in response to your letter dated May 28, 1993, requesting EPA's position on the applicability of certain portions of the regulations promulgated pursuant to the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 et seq. to activities undertaken by your corporation, Laidlaw Environmental Services, Inc. (Laidlaw).

Your letter outlined a hypothetical situation involving the discharge of hazardous wastes during transport by a third party transporter. You stated that the hazardous waste discharge was remediated by the third party transporter and placed into drums. You further stated that the discharged hazardous waste stored in these drums no longer met the hazardous waste description listed on the original hazardous waste manifest. You specifically requested Region I to determine who the generator of this hazardous waste discharge would be for this hypothetical situation. You also stated that 40 C.F.R. Part 263, Subparts B and C do not clearly address who should be identified as the generator in the event of a hazardous waste discharge occurring during transportation.

In order to respond to this issue, we must point out that 40 C.F.R. Part 262 must be used to determine the generator of the discharged hazardous waste. 40 C.F.R. Part 263 Subparts B and C are not meant to address generator liability issues. The intent of these Subparts is to provide temporary relief from the regulations to a transporter for any treatment or containment activities undertaken during an immediate response to a discharge of hazardous waste; an imminent and substantial threat of a discharge of hazardous waste; and, a discharge of a material which, when discharged, becomes a hazardous waste during the normal course of transportation.¹ 40 C.F.R. Part 263 also

¹ However, please note that 40 C.F.R. § 270.1(c)(3)(ii) states that "any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part for those activities."



If you have any further questions regarding this matter, please contact Kenneth Rota of the RCRA Enforcement Unit at (617) 573-5759.

Sincerely,

A handwritten signature in cursive script, reading "Bruce Marshall". The signature is fluid and written in dark ink.

Bruce Marshall, Chief
RCRA Support Section

cc: Kenneth Rota, EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

July 21, 1993

E. Michael Thomas
Goodwin, Proctor and Hoar
Exchange Place
Boston, MA 02109-2881

Dear Mr. Thomas:

This is in response to your letter of November 17, 1992, addressed to Region I's Office of Regional Counsel. Your letter requested clarification of several issues relating to the treatment standards for those F-listed wastes which also exhibit a hazardous characteristic. The Region's responses are presented in the same order as set out in your letter.

1. According to 40 C.F.R. § 268.9(a) and (b), if a hazardous waste constituent has been determined to be from a listed source and also possesses a hazardous characteristic, then only the listed waste code need be entered on the LDR notification.¹ Also, the more specific treatment standard will apply.

The treatment standard for acetone as a constituent in a characteristic high TOC ignitable liquid is technology based. However, only the numerical treatment standard for acetone must be met as listed in 40 C.F.R. § 268.43, Table CCW.²

In contrast to the above scenario, when a listed waste contains a constituent which is characteristic, but not included as a constituent of the listed waste, then the waste code and the associated treatment standard for that characteristic waste must be entered on the notification, in addition to the listed waste code on the notification.³

¹ The Agency has determined that the treatment standards in effect for listed wastes are more specific than treatment standards for characteristic wastes. See 55 Fed. Reg. 22659 (June 1, 1990).

² However, one would not necessarily need to use the treatment technologies required for D001 ignitable liquids to achieve adequate treatment for acetone. Also, please note that the treatment standards for most F001-F005 constituents have been revised. See 57 Fed. Reg. 37194, 37204 (August 18, 1992).

³ e.g., lead (D008) contained in waste acetone (F003).



2. Yes, for the same reason cited above. If spent methyl ethyl ketone has been determined to be F005, then it does not need a D001 waste code. If the constituent methyl ethyl ketone has been determined to be a spent solvent, then the F005 designation is correct and the specific treatment standard listed in 40 C.F.R § 268.43, Table CCW, must be met before land disposal of such waste.
3. The same principle applies to notification requirements and biennial reporting. Only the listed waste code should be included in these documents since it is more specific. Again, if there is a constituent in the listed waste which is characteristic but is not covered under the listing, then the characteristic waste code must be reported. With regard to the manifest, federal regulations require that only the U.S. Department of Transportation (DOT) description be set out on the manifest. If the state requires the inclusion of the waste code on the manifest, then the appropriate code(s) must be entered.

I hope these comments prove useful. If you have further questions or comments please contact Elaine Stanley of my staff at 223-5515.

Sincerely,



Bruce Marshall, Chief
RCRA Support Section

cc: Joshua Secunda
Elaine Stanley

Charlie -

Here's the letter
from Josh -

Please coordinate
w/ Brian on this
Thanks

Joan

GOODWIN, PROCTER & HOAR
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
COUNSELLORS AT LAW
EXCHANGE PLACE
BOSTON, MASSACHUSETTS 02109-2881

TELEPHONE (617) 570-1000
TELECOPIER (617) 523-1231
TELEX 94-0640
CABLE - GOODPROCT, BOSTON

P.2
JGK

November 17, 1992

Deborah Brown, Esq.
Chief, RCRA/EPCRA Section
U.S. Environmental Protection Agency, Region 1
Office of Regional Counsel
JFK Federal Building
Boston, MA 02203

Dear Ms. Brown:

I am writing to inquire about the procedures for filing Land Disposal Restriction (LDR) notifications and hazardous waste manifests concerning wastes which are F-listed wastes which also exhibit a hazardous characteristic. According to 40 C.F.R. § 268.9(b),

[w]here a prohibited waste is both listed under 40 C.F.R. part 261, subpart D, and exhibits a characteristic under 40 C.F.R. part 261, subpart C, the treatment standard for the waste code listed in 40 C.F.R. part 261, subpart D, will operate in lieu of the standard for the waste code under 40 C.F.R. part 261, subpart C, provided that the treatment standard for the listed waste includes a treatment standard for the constituent that causes the waste to exhibit the characteristic. Otherwise, the waste must meet the treatment standards for all applicable listed and characteristic waste codes.

This provision is discussed in general terms in the Third Third Preamble at 55 Fed. Reg. 22659 (June 1, 1990). However, we have been unable to find any specific discussion of how this provision would apply to F-listed wastes which also exhibit the characteristic of ignitability. Moreover, we understand that different waste management vendors reach different conclusions about the proper paperwork concerning such wastes. We therefore request confirmation of our interpretation of the LDR regulations in the following cases:

1. Is it true that F003 waste comprised solely of spent acetone (which thus is listed only for its ignitable properties) does not also need a D001 waste code entry on the LDR notification because the F003 treatment standard

GOODWIN, PROCTER & HOAR

Deborah Brown, Esq.

November 17, 1992

Page 2

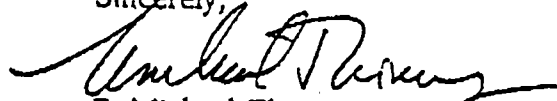
specifically addresses the constituent (acetone) that causes the ignitability, even though the technology-based treatment standard for high TOC D001 (FSUBS, RORGS or INCIN) is not precisely the equivalent of the CCW treatment standard of 160 mg/l acetone?

2. Is it true that F005 comprised solely of spent methyl ethyl ketone, which is ignitable and toxic, does not need a D001 waste code for the reason cited in Case 1 above? Is it also true that the D035 treatment standard, when published, will not need to be additionally shown on the LDR notification because the constituent (methyl ethyl ketone) causing toxicity for D035 has already been addressed in the F005 treatment standard?

3. Assuming that the F-list treatment standards operate in lieu of the characteristic treatment standards for the waste streams described above, please confirm that for all purposes other than compliance with the LDR requirements, e.g., for purposes of the hazardous waste manifests accompanying such shipments and for other descriptive purposes like Part A applications, only the F-list waste codes are necessary to provide a complete description of the waste stream.

Your assistance with this inquiry will be greatly appreciated.

Sincerely,



E. Michael Thomas



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

CLARE Stanley

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July 15, 1993

Nick Skoularkis, Ph.D.,
Project Manager
Loureiro Engineering Associates, P.C.
100 Northwest Drive
Plainville, CT 06062

✓

Dear Dr. Skoularkis:

I am writing to you in response to your correspondence dated November 16, 1992 requesting EPA's interpretation on whether an interim status facility, under the current regulations, would be allowed to excavate contaminated soils, place them in a containment building constructed for that purpose and within 90 days, treat the soils adequately so that they no longer contain hazardous waste and/or hazardous constituents.

It is possible to conduct storage and treatment in a containment building providing the requirements of 40 CFR Part 265, Subpart DD are complied with. These requirements became effective on February 18, 1993. An owner or operator that began operating a containment building under these provisions prior to the effective date was required to notify the Regional Administrator of his/her intent to comply with the requirements of Subpart DD prior to the beginning of operation. Subsequent to the effective date, a PE certification is required prior to operation of the unit.

Generators who accumulate or treat hazardous waste in containment buildings must comply with 40 CFR § 262.34(a)(1)(iv) as well as meet the same substantive standards as permitted and interim status units under 40 CFR Part 264 Subpart DD and Part 265 Subpart DD, respectively, without obtaining a permit or interim status as long as thermal treatment is not involved. This includes the requirement of obtaining certification by a professional engineer that the unit is designed and constructed to meet the requirements for containment buildings, maintain such certification at the facility, and for the 90-day accumulation exclusion, maintain documentation showing no hazardous waste remains in the unit for greater than 90 days as required by 40 CFR § 262.34(a)(1)(iv). These requirements may be found at 57 FR 37264 of the August 18, 1992 Federal Register.

If a generator choose to treat a prohibited hazardous waste in containment buildings in order to meet applicable 40 CFR Part 268, Subpart D treatment standards, he or she must comply with the waste analysis plan requirements of 40 CFR § 268.7(a)(4).

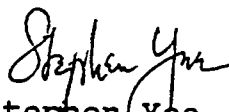


codifies the "contained-in" policy with respect to contaminated debris. The rule also published revised treatment standards for debris as defined in the rule which are contaminated with listed prohibited wastes. The rule specifies acceptable treatment technologies for the hazardous debris and as an alternative, hazardous debris may continue to be handled in accordance with the "contained-in" policy, and so may be land disposed if it no longer "contains" a hazardous waste. The treated debris which has met the performance standards and not exhibit any characteristic of hazardous waste would not be prohibited from land disposal or reuse. However, residuals generated from the treatment of debris contaminated with listed waste would still be hazardous wastes by virtue of the derived-from rule and would be subject to the numerical treatment standards for the wastes contaminating the debris. Please note that the case-by-case capacity variance for certain hazardous debris was granted a one year extension from the effective date of May 8, 1993. A generator wishing to take advantage of this variance must submit to EPA in Washington, D.C., proof that they have made a good faith to find capacity (58 FR 28506, May 14, 1993).

In addition, your letter indicated that the contaminated soils were located at a RCRA interim status facility, as such, the facility is subject to corrective action. Any remediation effort shall include, at a minimum, an assessment of the nature and extent of contamination, impacts upon any ground water sources, a sampling and analysis plan, treatment standards to be achieved during the treatment of the soils, etc.

If you have any questions, please do not hesitate to contact me at (617) 573-5644 or Elaine Stanley at (617) 223-5515.

Sincerely,


Stephen Yee,
Environmental Engineer
CT Waste Regulation Section

cc: David Nash, CTDEP
George Dews, CTDEP
Elaine Stanley, EPA
Matt Hoagland, EPA
John Podgurski, EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

Ken Rota
Thanks
for your
help!

June 30, 1993

Mr. Michael J. Pacana, Manager
Tank Cleaning Operations
Matlack, Inc.
One Rollins Plaza
P.O. Box 8789
Wilmington, DE 19899

Dear Mr. Pacana:

Thank you for your inquiry dated May 14, 1993 regarding tank cleaning facilities and RCRA standards. Your letter raised some important issues which I will address.

In your letter you requested this Region's position on whether a transfer facility pursuant to 40 C.F.R. Part 263 may be subject to a RCRA permit. You described the activity as the removal of residues from cargo tanks and tank cars and repackaging the residues in Department of Transportation (DOT) approved containers. These DOT containers would then be returned to the original treatment, storage or disposal facility (or a different facility with the approval of the generator).

We do not believe a RCRA permit is required of a transfer facility for these activities provided the waste is received on a hazardous waste manifest and there is no treatment, storage or disposal of hazardous waste. As you know, if as a result of these activities a hazardous waste is generated, the transfer facility becomes a generator subject to the standards of 40 C.F.R. Part 262. Subsequent transportation of these hazardous wastes is subject to the standards for transporters at 40 C.F.R. Part 263.

As you know, EPA Headquarters has organized a workgroup to address this issue. This region may change its position to conform with future national policy on this issue. The EPA contact for this group is Mr. Allen Maples in the Characteristic Assessment Division, Office of Solid Waste. Mr. Maples may be reached at (202) 260-9556.

If you have any questions, please contact John Smaldone, my Special Assistant, at (617) 565-9125.

Sincerely,

Paul Keough

Paul G. Keough
Acting Regional Administrator





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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

May 26, 1993

John G. Ferland, General Manager
Clean Casco Bay, Inc.
48 Union Wharf
P.O. Box 387
Portland, Maine 04112

Re: Applicability of the Resource Conservation and Recovery Act (RCRA) to the activities of Clean Casco Bay, Inc. (CCB)

Dear Mr. Ferland:

This is in response to your letter dated July 14, 1992, requesting EPA's position on the applicability of certain portions of regulations promulgated pursuant to the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 et seq. to activities undertaken by your corporation. Your letter stated that Clean Casco Bay, Inc. (CCB) plans to contain and recover materials spilled into the waters of Casco Bay or into the open ocean, and that some of these materials might be hazardous waste as defined by RCRA. Therefore, you requested the Region's interpretation of the applicability of portions of RCRA to these activities.

Under the scenario set out in your letter, CCB would not be a "generator" as defined by RCRA. In the ordinary course of business, CCB's oil collection activities and towing of oil recovery containers would qualify CCB as a RCRA "transporter," pursuant to 40 C.F.R. Part 263. However, your letter states that CCB will contain and recover materials spilled at sea solely during emergency or "immediate response" situations. Title 40 C.F.R. § 270.1(c)(3) provides a temporary exclusion from RCRA for treatment or containment activities taken during an immediate response to a discharge of hazardous waste; an imminent and substantial threat of a discharge of hazardous waste; and, a discharge of a material which, when discharged, becomes a hazardous waste.¹ Title 40 C.F.R. Part 263 provides that any local, state or federal authority with responsibility for protecting human health and the environment has the authority to waive EPA identification number and manifesting requirements.² Thus, in immediate response situations as described above, CCB would not be subject to the RCRA transporter requirements.

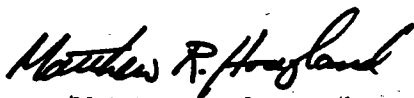
¹ However, please note that 40 C.F.R. § 270.1(c)(3)(ii) states that "any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part for those activities."

² See 40 C.F.R. §§ 263.30 and 263.31.

Finally, based on the description of your activities set out in your letter, it is Region I's conclusion that you are not a RCRA "facility."³ However, should CCB store hazardous waste or hazardous constituents on its vessel or in tanks for longer than ten days, the vessel and/or tanks might become a hazardous waste storage facility and subject to all applicable RCRA regulations.⁴

If you have any further questions regarding this matter, please contact Kenneth Rota of the RCRA Enforcement Unit at (617) 573-5759 or Joshua Secunda of the Office of Regional Counsel at (617) 565-3433.

Sincerely,



Matthew R. Hoagland, Chief
ME, NH & VT Section

cc: Scott Whittier, Maine DEP

³ Title 40 CFR § 260.10 defines a "facility" as:

all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

⁴ See 40 C.F.R. Part 265. Further, in such a case, CCB would be required to obtain a RCRA permit for storage pursuant to 40 CFR § 270.1(c).

Sent ~ 5/4/93

Cynthia A. Adams, Environmental Engineer
Colt's Manufacturing Company, Inc.
P.O. Box 1868
Hartford, CT 06144-1868

Dear Ms. Adams:

This letter is in response to your April 27, 1993 letter requesting EPA's opinion of the regulatory status concerning a rejected shipment of baghouse dust from a Canadian facility. Specifically, 26,540 pounds of baghouse dust contaminated with lead was rejected by Stablex, Canada, Inc. located in Blainville, Quebec, Canada for radioactivity levels above 0.1 becquerels per gram. This shipment was manifested on the State of Rhode Island hazardous waste manifest number RID0023228.

EPA has contacted representatives of your office, the primary exporter, Northland Environmental, Inc., the Nuclear Regulatory Commission, and other experts from both the public and private sectors about this matter. Based on our investigation and discussions with all parties involved, the baghouse dust does not appear to be regulated as a low level radioactive waste.

According to Jim Mitch, president, Northland Environmental Group, the level of radioactivity detected in the baghouse dust was approximately 2.1 becquerels per gram. This translates to a radioactivity level of approximately 2.2×10^{-14} disintegrations per sec. According to Steve Courtemanche, of the Nuclear Regulatory Commission, this level of activity is roughly equivalent to environmental (background) levels. As a comparison, Mr. Courtemanche stated that the level of radioactivity associated with a smoke detector, which is not regulated, is approximately one million times greater than the levels detected in the baghouse dust. Mr. Courtemanche also stated that the type of equipment needed to conduct such low measurements for radioactivity are extremely sophisticated. The fact that this reading was allegedly taken using hand held equipment makes the results suspect.

EPA agrees with this opinion. Based on discussions between yourself and Ken Rota of my staff, the cleanout of the baghouse unit at your facility generated a total of four containers of baghouse dust. Three of these containers were not found to be radioactive. Because all of the material came from the same unit, the validity of the testing conducted is questionable.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

April 30, 1993

Mr. Steven D. Murphy
Lead Planning Analyst
State of Connecticut
Office of Policy and Management
80 Washington Street
Hartford, CT 06106-4459

Dear Mr. Murphy:

It was a pleasure to meet you at EPA Region I's Environmental Awards Ceremony. Your inquiry on federal regulation of fluorescent light bulbs under the Resource Conservation And Recovery Act (RCRA) is an important issue in a very complex area of environmental regulation.

It is my understanding that the condition of the light bulbs and their intended disposition are important factors in whether certain federal RCRA regulations apply. For example, under federal law spent (non-working) fluorescent light bulbs to be discarded are a RCRA regulated solid waste. Therefore, these bulbs must undergo a hazardous waste determination before disposal. This determination can be made either through knowledge of the materials contained in the light bulbs or by testing them through application of the Toxicity Characteristic Leaching Procedures (TCLP) (see 40 CFR Part 262.11).

If the bulbs are in working condition and are to be recycled, they are not subject to regulation under RCRA. However, if working light bulbs are to be discarded, they are subject to the same requirements as set out in the preceding paragraph. Finally, fluorescent light bulbs from residential (household) sources only, and which are recycled, are not regulated under RCRA. The residential sources of these light bulbs must be demonstrated.

You should note that Small Quantity Generators (SQGs) of hazardous waste are afforded certain exemptions from federal RCRA standards. Under federal law, a Small Quantity Generator (SQG) may generate no more than a total of 220 pounds of hazardous waste per month (see 40 CFR Part 260.10). As you are aware, states may have additional requirements.



Mr. Murphy
Page 2

EPA Headquarters has organized a Fluorescent Light Workgroup to evaluate available information on fluorescent lights and to make recommendations for EPA action. The contact for this workgroup is Ms. Charlotte Mooney. She may be reached at (202) 260-6926.

I hope this information has been helpful. If I may be of any additional assistance please contact me at (617) 565-3402 or John Smaldone, my Special Assistant, at (617) 565-9125.

Sincerely,



Paul G. Keough
Acting Regional Administrator

cc: Deborah Brown, ORC
Ken Rota, WMD



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

April 21, 1993

Mr. James Maher
Environmental Processing
Associates, Incorporated
Foundry Industrial Park
Building 1A Foundry Street
Lowell, MA 01852

Dear Mr. Maher:

This letter comes in response to your letter of March 1, 1993 and a follow-up letter dated March 29, 1993 requesting guidance on how materials Electronic Processing Associates markets fits into the federal hazardous waste regulations.

As stated in your March 29th letter, Electronics Processing Associates operations consist of receiving computer terminals or televisions sets at the facility and separating the materials into recoverable categories, one of which is the spent CRTs. The CRTs are then processed by releasing the pressure within the CRT, removing steel bands and crushing the remaining casing for use by a customer.

Electronics Processing Associates has been issued a Class A recycling permit from the Massachusetts Department of Environmental Protection (MA DEP). In issuing this permit the MA DEP has presumably considered all the process information submitted by your company and has deemed the process a form of recycling which would be environmentally desirable to alternative disposal methods. At the present time, EPA chooses to defer to the MA DEP's issuance of a recycling permit and the selection of permit conditions which should act as incentives to proper waste management.

40 C.F.R. § 261.1 (c)(4) states that, "a material is reclaimed if it is processed to recover a usable product, or if it is regenerated." The CRT process described in your letters is considered reclamation only if all hazardous constituents are being processed to recover a usable product. Assuming all hazardous constituents remaining as a result of Electronic Processing Associates' processing of CRTs are reused by a customer or by Electronics Processing Associates, and considering other criteria such as intent and financial incentives, this process may be considered reclamation, a form of recycling.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 2

To: Jim Maher	From: Lisa P. [illegible]
Dept./Agency:	Phone: 513 5743
Fax: 1-508-970-3700	Fax: 513 9662

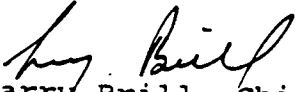
NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

COPY



If you have any additional questions regarding your process and its relationship to the federal hazardous waste regulations, please contact Lisa Papetti of my staff at (617) 573-5745.

Sincerely,


Larry Brill, Chief
MA Waste Management Branch

cc: Gary Gosbee, EPA
Lisa Papetti, EPA
Steve DeGabriele, MA DEP

4/14/93

Peter Knych, Esquire
O'Hara & Hanlon
Attorneys at Law
One Park Place
Syracuse, New York 13202

Dear Mr. Knych:

This letter is in response to your February 10, 1993 letter on behalf of Coyne Textile Services. In your letter you requested that EPA Region I consider withdrawing or modifying its position regarding the regulatory status of soiled textiles. Region I has considered your request.

First, Region I calls to your attention that all of the states in Region I have been authorized to administer the base Resource Conservation and Recovery Act (RCRA) hazardous waste program, which includes issues associated with hazardous waste identification. Under this authorization, states enforce their own rules and regulations in lieu of the Federal program. Region I believes that this effectively renders the regulatory status of solvent contaminated wipers a state issue.

Secondly, as we discussed in our January 20, 1993 meeting, the issue as presented to us, is whether EPA is willing to create a limited exemption from the full RCRA regulatory scheme for solvent contaminated wipers that are to be reclaimed (laundered). The Region maintains that under its RCRA authority, any such Federal waste stream exemption can only be developed, if at all, on a national level. As you are also aware, there are currently at least two pending petitions on the national level which seek such a regulatory exemption for solvent contaminated wipers. As your letter notes, there may in fact be compelling reasons why such an exemption should exist. Your letter also points out, however, the compelling need to have this issue decided on a national level, mainly to reconcile the seemingly divergent state and Regional positions.

Further, you should note that it is our understanding that solvent contaminated wipers have been raised in conjunction with the universal waste stream discussions ongoing in Washington.

Finally, the Region's position regarding its regulatory interpretation of the status of solvent contaminated wipers, when queried directly of their status, as was the case in the Malcom Fox letter of January 22, 1992, remains unchanged. Region I maintains that contaminated wipers are solid waste when they are to be discarded. The contaminated wiper's are a spent material. If the wipers are being thrown away, then they are clearly being discarded. If the wipers are being laundered then they are being reclaimed. Under either scenario the wipers must be characterized as a solid waste as per 40 CFR 261.2.

Additionally, if the solid waste wipers are contaminated with a listed hazardous waste or are characteristic of a hazardous waste then they are a hazardous waste. (40 CFR 261.3)

If you have any further questions, please contact me at (617) 573-5700 or Richard Filosa of my staff at (617) 573-5777.

Sincerely,

Merrill S. Hohman, Director
Waste Management Division

cc: Larry Brill
David Webster
Matthew Hoagland
Bob Cianciarullo
Ken Rota
Charlotte Mooney (EPA-HQ)
Richard Filosa



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

April 9, 1993

The Honorable Bill Zeliff
Member, House of Representatives
340 Commercial St.
Manchester, NH 03101

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 2

To	Mat Hoagland	From	Randy Brown
Dept./Agency	Waste	Phone #	565-3412
Fax #	573-9682	Fax #	565-3414
NSN 7540-01-317-7308		0099-101	
GENERAL SERVICES ADMINISTRATION			

Dear Mr. Zeliff:

Thank you for the opportunity to respond to Mr. William Fortune of Rochester, New Hampshire. Mr. Fortune's concerns deal with treatability studies for spent lead paint. Apparently, Mr. Fortune contacted your office after he spoke with the New Hampshire Department of Environmental Services (NHDES).

In his February 4, 1993 letter, Mr. Fortune provides information on his current and potential future lead removal operations. His goal is to minimize the volume of waste produced during lead paint removal operations. Mr. Fortune's chief concern appears to revolve around bringing "samples" to Rochester, NH "...where tests will be conducted to determine the best separation equipment design." Mr. Fortune requests "recognition" under 40 CFR 261.4 (d), (e) and (f) "for the sole purpose of conducting 'Treatability Studies' for spent lead paint."

On March 25, 1992, our office contacted Mr. Fortune. In that conversation, Mr. Fortune informed us that he seeks an exemption for shipping a sample containing spent lead paint waste, steel grit and water for testing at his Rochester, NH facility. This sample would not exceed 1000 kilograms. His treatability testing would involve: 1) separating the water, steel grit and lead paint waste from each other, and 2) further treatment of the water to precipitate dissolved lead ions. All lead solids produced from the treatability test would be handled as a hazardous waste.

Spent lead paint waste would meet the definition of solid waste under RCRA. Commonly, spent lead paint waste becomes a hazardous waste when a representative sample extract equals or exceeds 5 milligrams per liter (parts per million) using a standard testing procedure known as the Toxicity Characteristic Leaching Procedure (TCLP). Finally, our office has confirmed that Mr. Fortune's company, Industrial Consultants, Inc., has received an EPA Hazardous Waste Identification Number.

Mr. Fortune's testing plans, as we currently understand them, meet the RCRA treatability study definition found in 40 CFR 260.10. As his testing process proceeds, he must comply with all

other parts of RCRA, particularly §§ 261.4 (e) and (f). Several of the RCRA requirements that Mr. Fortune must comply with involve notification of the Regional Administrator because the State of New Hampshire is not authorized by the federal government to enforce the TCLP rules under the federal RCRA program. Thus, the TCLP rules are currently federal law.

As one final note, Mr. Fortune also mentions in his letter that water used in the lead paint removal process will be discharged "overboard." Mr. Fortune should be aware that such discharge would likely require a permit from EPA and/or the NHDES under National Pollution Discharge Elimination System (NPDES).

If you have any additional questions or concerns on this matter, please contact Matthew Hoagland at 617/573-5790.

Sincerely,

Paul Keough

Paul Keough,
Acting Regional Administrator

cc: Philip J. O'Brien, NHDES

Log Report ?

Pinch Summary - Super

May 6, 1993

Responded to Mr Fortune's call.

He said that he has not been able to get information from NH.

I told Mr Fortune that he can proceed, but he must be in compliance with RCRA laws esp. the ones cited in this letter. I told him that he must also comply with state laws which are more stringent.

APR 11

MAR 8 1993

Robert M. Quintal, Sales Engineer
Energy Services
Eagle Electric Supply Company, Inc.
195 Old Colony Avenue
Boston, MA 02127-2457

Dear Mr. Quintal:

Thank you for your letter of January 18, 1993 requesting information on mercury containing fluorescent lamps. The U.S. Environmental Protection Agency (EPA) has received numerous inquiries concerning the proper management of used fluorescent lamps. As you may be aware, recent data indicate that used fluorescent lamps may be a hazardous waste under the Federal hazardous waste identification criteria. Naturally, this has caused considerable concern to those who are responsible for the management of used lamp wastes.

EPA Headquarters is aware of these concerns and is currently working with both the States and the lighting industry to resolve the issues associated with this waste. Although the Agency is evaluating various management options, it is premature to speculate what, if any, changes may be made to the current regulatory program.

The proper disposal of used fluorescent lamps from sources other than households is determined by answering two questions:
(1) is the used fluorescent lamp a hazardous waste; and, if yes,
(2) what is your hazardous waste generator status?

1. Hazardous Waste Determination

Under the Resource Conservation and Recovery Act (RCRA) regulations, used fluorescent lamps are subject to evaluation against the RCRA hazardous waste determination requirements. The generator of the waste is responsible for making this determination. The regulations applicable to the identification and listing of hazardous waste are found at 40 C.F.R. Part 261.

				CONCURRENCES			
SURNAME	HRW	HRW	HRW	HRW			
DATE	2/26/93	2/26/93	3/2/93	3/3/93			

a. Are used fluorescent lamps a solid waste? Yes.

In order to be considered a Federal hazardous waste, any waste must first meet the definition of a solid waste. A solid waste is defined in 40 C.F.R. § 261.2. Simply stated, a solid waste is any discarded material that is not excluded under 40 C.F.R. § 261.4(a) or by variance granted under 40 C.F.R. §§ 260.30 and 260.31. Under 40 C.F.R. § 261.4(a) there are specific wastes that are excluded from the definition of solid waste, but used fluorescent lamps are not excluded wastes. Therefore, they are a solid waste regardless of whether you dispose of, burn, accumulate, store, treat, or recycle them. Since used fluorescent lamps are a solid waste, generators must then determine whether these lamps are a hazardous waste or not.

b. Are used fluorescent lamps a hazardous waste? They may be.

The definition of a hazardous waste is found at 40 C.F.R. § 261.3. Again, simply put, a solid waste is a hazardous waste if it is:

- A) Not excluded under 40 C.F.R. § 261.4(b);
- B) And it is listed under 40 C.F.R. §§ 261.31, 261.32, or 261.33;
- C) Or it exhibits one of the four characteristics (ignitability, corrosivity, reactivity and toxicity) of a hazardous waste found in 40 C.F.R. §§ 261.21, 261.22, 261.23, or 261.24;
- D) Or it is a solid waste that is mixed with any of the wastes listed in B) above.

Upon reviewing the criteria in 40 C.F.R. Section 261, it can be determined that used fluorescent lamps are not excluded from the definition of hazardous waste nor are they a listed hazardous waste. In most circumstances, used fluorescent lamps would not exhibit the hazardous waste characteristics of ignitability, corrosivity, or reactivity and, therefore, would not be considered hazardous for those characteristics.

A generator must then determine whether or not this waste exhibits a toxicity characteristic (TC). A generator may make this TC determination based either on knowledge of the material used in the waste (fluorescent lamp manufacturers may make information available to their customers to support a hazardous waste determination) or the results of the Toxicity Characteristic Leaching Procedure (TCLP). TCLP is an analysis performed on an extract from a representative sample of the

waste. If the extract from a used fluorescent lamp contains mercury contaminants at the concentration equal to or greater than 0.2 mg/l, the waste is hazardous. EPA is aware that the results of the TCLP on used fluorescent lamps may exceed the regulatory limit for mercury.

Used fluorescent lamps that are NOT a hazardous waste may be disposed of in accordance with applicable state and local solid waste requirements.

Used fluorescent lamps that are a hazardous waste must be managed in accordance with both State and Federal hazardous waste requirements. It is important to point out that the State hazardous waste programs often have additional and more restrictive hazardous waste management and disposal requirements than the Federal program. Since the Department of Environmental Protection (DEP) is the primary agency responsible for implementing the base RCRA program in Massachusetts, generators should contact Mr. James Miller, MA DEP, at 617/292-5853 for assistance in identifying the requirements they must comply with.

2. Categories of Hazardous Waste Generators

Under the Federal hazardous waste program, there are three categories of hazardous waste generators and each category has its own specific regulatory requirements. This discussion focuses on disposal requirements and does not discuss on-site management standards and requirements (i.e., storage, training, or accident prevention requirements). To determine a facility's hazardous waste generator category, the generator must include the total of all of its hazardous waste streams (not just used fluorescent lamps) generated per month. It is possible that the only waste some facilities will generate is used fluorescent lamps. The three generator categories and their disposal options are:

- i) Conditionally exempt small quantity generators (CESQGs):
Generators of no more than 220 pounds (100 kg) of hazardous waste per month.

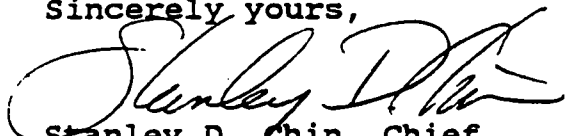
Hazardous waste generated by CESQGs may be disposed of at either a hazardous waste facility, or a landfill or other facility approved by the State for industrial or municipal wastes. Generators do not need to prepare a hazardous waste manifest nor use licensed hazardous waste haulers to deliver the waste to the destination facility.

- ii) Small quantity generators (SQGs): Generators of 220 to 2200 pounds (100-1000 kg) of hazardous waste per month; and,
- iii) Large quantity generators (LQGs): Generators of 2200 pounds (1000 kg) or more of hazardous waste per month.

Hazardous waste generated by SQGs and LQGs must be disposed of at a licensed hazardous waste facility and transported by a licensed hauler. A hazardous waste manifest must accompany each off-site waste shipment. In addition, LQGs should refer to the enclosed September, 1992 EPA Monthly Hotline Report on the applicability of EPA's Land Disposal Restrictions effective date for hazardous debris to used fluorescent light bulbs that exhibit the toxicity characteristic for mercury.

Also included for your information is a recent EPA publication containing information on the disposal of used lamps and ballasts from lighting upgrade projects. If you have additional questions, please contact Ms. Austine Frawley of my staff at 617/573-5758.

Sincerely yours,



Stanley D. Chin, Chief
RCRA Support Section

Enclosures

cc: J. Miller, MA DEP
L. Papetti, US EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

March 2, 1993

Jim Miller, Chief
Compliance and Enforcement Branch
Bureau of Waste Prevention
Massachusetts DEP
One Winter Street
Boston, MA 02108

Dear Mr. Miller:

This letter is a followup to the January 6, 1993 meeting between the Massachusetts Department of Environmental Protection and EPA concerning EPA's authority to regulate mixed radioactive wastes and debris. These issues were raised at this meeting relevant to the continuing cleanup activities presently being conducted at the Watertown Arsenal. The issues, identified by number, and EPA's response are provided below:

1. Does EPA have any authority to regulate mixed radioactive wastes in Massachusetts?

No. Mixed radioactive wastes are part of the Non-HWSA Cluster III RCRA program requirements. Currently, the Commonwealth of Massachusetts is not authorized for this program element. As such, EPA does not and will not have the authority to regulate mixed radioactive waste in Massachusetts until the State receives authorization.

2. Does EPA have the authority in Massachusetts to enforce the mixed radioactive debris rules recently finalized under the Hazardous and Solid Waste Amendments (HWSA)?

No. The only types of hazardous wastes that HSWA allows EPA to regulate under its own authority are those wastes that meet the definition of hazardous under the Toxicity Characteristic Leaching Procedure (TCLP) found at 40 C.F.R. § 261.24. The TCLP became effective on September 25, 1990. EPA can only regulate other non-TC hazardous wastes if a State has received authorization from EPA before the TCLP was in effect. Since mixed radioactive wastes are not part of the TCLP listings, EPA does not and will not have any authority to regulate mixed radioactive debris in Massachusetts until the State receives authorization.



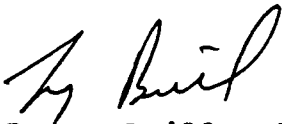
3. Does EPA have the authority in Massachusetts to enforce the Land Disposal Restriction (LDR) regulations for mixed radioactive wastes?

No, for the same reasons as stated in number 2 above, mixed radioactive wastes are not part of the TCLP, and the Commonwealth of Massachusetts is not authorized for the regulation of mixed radioactive wastes by EPA. Therefore, EPA does not and will not have any authority to regulate the land disposal of this type of waste in Massachusetts until the State receives authorization.

Although EPA has not authorized the Commonwealth of Massachusetts for the regulation of mixed radioactive wastes, this does not preclude Massachusetts from regulating these wastes under its own authority.

Please contact Kenneth Rota (617) 573-5759 or Joan Serra (617) 223-5527 of my staff if we can be of further assistance.

Sincerely,



Larry Brill, Chief
Massachusetts Waste Management Branch



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

February 23, 1993

Mr. Robert T. Pfisterer
Production Manager
Pfizer Incorporated
Eastern Point Road
Groton, Connecticut 06340

EPA I.D. No. CTD001147495

Re: Release of Contaminated Soils from RCRA Subtitle C
Management Requirements Contingent Upon Disposal as CTDEP
Special Waste.

Dear Mr. Pfisterer:

The Environmental Protection Agency has reviewed data submitted by Pfizer regarding certain contaminated soils that were treated above-ground using vacuum extraction. These soils were originally contaminated by listed hazardous wastes. Therefore, they are subject to management requirements pursuant to Subtitle C of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 9601 et seq. However, as you are aware, EPA may make case-by-case determinations as to whether particular contaminated media, such as soil and groundwater, may be released from Subtitle C management requirements based on the level of residual risk posed by the contaminated media after treatment.

Accordingly, EPA has determined that the soils characterized in the September 22, 1992 submittal by Recra Environmental Inc. on behalf of Pfizer may be released from Subtitle C management requirements. This release is contingent upon: (1) management in accordance with State of Connecticut Department of Environmental Protection Special Waste disposal requirements, Connecticut Hazardous Waste Management Regulation 22a-209-8; and (2) written verification to EPA that such management has taken place.

Alternatively, as orally conveyed to Pfizer by EPA staff, Pfizer may propose delivering the soils to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling or reclamation.

EPA's decision is based in part on human health risk estimates which indicate that several compounds, to wit benzo(a)pyrene, benzo(b)&(k)fluoranthene, and arsenic, are present in the soils at levels that exceed acceptable residential exposures. However, the concentrations do not exceed acceptable exposure levels under an industrial exposure scenario, such as that posed by landfill disposal.

The DEP views resolution of the issues played out in the protocols critical to its ongoing 21E site remediation work, and welcomes EPA's timely input in their development.

Very truly yours,



Thomas B. Powers
Deputy Commissioner

cc: Paul Keough, Assistant Regional Administrator EPA Region I
Donald Clay, Assistant Administrator, OSWER, EPA, Washington
James Colman, Assistant Commissioner
Patricia Stanton, Assistant Commissioner
Steve Lipman, Boston Harbor Coordinator
Bill Sirull, DHW
John Carrigan, DHW
Gerald Levy, EPA Branch Chief
Gary Gosbee, EPA Section Chief
Madeline Snow, BWSC, Division Director
Helen Waldorf, BWSC,